

CITY OF MUSKEGON  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES

April 13, 2004

Chairman S. Schiller called the meeting to order at 4:03 p.m., and roll was taken.

MEMBERS PRESENT: C. Kufta, S. Schiller, R. Hilt, E. Fordham, J. Clingman-Scott, R. Schweifler, B. Larson

MEMBERS ABSENT: C. Kufta, excused; R. Schweifler

STAFF PRESENT: B. Lazor, H. Griffith

OTHERS PRESENT: R. & C. Holden, 513 Oak; J. Trapp, American Manufactured Living; C. Holden, Holden Construction; R. McEwen, 1812 Lakeshore; D. Wood, MAISD; C. Cunningham, 1223 Morgan; S. & B. Thomas, 1790 Beach; R. Bosch, 187 Hamilton; D. Erickson, Ambucare.

APPROVAL OF MINUTES

A motion to approve the regular meeting minutes of March 9, 2004, was made by R. Hilt, supported by E. Fordham and unanimously approved.

OLD BUSINESS

Hearing, Case 2004-4: Variance request to allow a pre-manufactured home with a length that is more than two times its width at 513-523 Oak Avenue, by Ricky and Carolyn Holden. B. Lazor presented the staff report. The subject property is located near the mid block of Oak Avenue between Williams Street and Scott Street. Currently there are two separate lots. The lots would have to be combined before placing a house on both of them. Together the lots measure 132' X 132' which is 17,424 sq. feet. There was a home on the property, but it burnt and was subsequently torn down. The proposed home is 30 feet wide by 68 feet long. The plan shows that the house is 30 X 64, in actuality it is two halves which are 15 X 64 that are offset approximately 4 feet. The Zoning Ordinance has a set of standards for residential design criteria. The proposed length of the home is more than double its width by 8 feet. The applicant indicated in a drawing that there would be an attached 24 X 24-foot garage. The applicant also wrote in on the supplied drawing that the house would be placed on a full basement. The structures within a close proximity of this lot are generally 1-½ stories in height. Section 2319 of the Zoning Ordinance [Residential Design Criteria] has numerous requirements for new homes before they are placed in the City. The criteria was supplied to the commission members. Staff has done a preliminary review of the design criteria and has the following comments in italics: Roof drainage in the form of a roof overhang of at least twelve inches (12") shall be provided to direct storm or

meltwater way from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system. *staff received a letter from the manufacturer indicating that they are going to add an extra fascia plate on the sides of the structure to meet this criteria.* Any single-story, residential structure shall not be more than two (2) times longer than its width (exclusive of an attached garage). *This is what is before the ZBA today.* The subject dwelling unit shall be aesthetically compatible in design and appearance with other dwellings within 600 feet. The review shall include but not necessarily be limited to: roof pitch, scale, size, mass, minimum transparency, orientation to the street, and overhangs. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as (but not limited to) solar energy, view, or unique land contour. *The average width of the homes within 600 feet of this proposed dwelling are less than 30 feet. This new home design is in better comparison (than the previous submission) with the other homes on this street. There are varying roof designs and offsets including a front porch.* Staff received a phone call from the Payne Household of 492 Oak Avenue before last months meeting to say they were excited about the home going into the neighborhood.

R. Hilt asked if the manufacturer would take care of the roof drainage. B. Lazor stated that they would.

B. Larson arrived at 4:07 p.m.

S. Schiller asked what the pitch of the roof was. J. Trapp stated that it was 5/12. B. Lazor asked if there would be an extra fascia plate going on the long sides of the home. J. Trapp stated that there would be.

A motion to close the public hearing was made by R. Hilt, supported by B. Larson and unanimously approved.

R. Hilt stated that this is a much better plan that is before them. A lot of the problems from the previous meeting were taken care of. E. Fordham agreed. He added that most of the homes were built over 100 years ago. Many of them have Michigan cellars and have inadequate foundations.

The following findings of fact were offered: There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district because they own a lot with a dimension of 132 ft. by 132 ft. and the proposed home would fit better with this size lot. The dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because other lots in this area aren't like this. Authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest because the proposed home will fit on the lot and would fit in with the surrounding neighborhood. The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because the length of the proposed home is over the allowed double value of the width. The alleged difficulty is not founded solely upon the

opportunity to make the property more profitable or to reduce expense to the owner because they have an expense with the purchase of the home and it wouldn't be profitable, as they will be living in the home. The requested variance is the minimum action required to eliminate the difficulty because they would be allowed to have the home that would fit in best with the property.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to allow a home that has a length that is more than two times its at 512-523 Oak Avenue., be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future. 2) That the addition to the property must be complete within one year or the variance is void, was made by E. Fordham, supported by B. Larson and unanimously approved.

Hearing, Case 2004-5: Variance request to allow a circle driveway to be placed in the front of the proposed home at 513-523 oak Avenue, by Ricky and Carolyn Holden. B. Lazor presented the staff report. The applicant is seeking a variance from the zoning ordinance that prohibits parking cars in front of the front building line. The layout has changed significantly in the new situation. The applicant has also indicated that each of the properties has a curb cut and the supplied drawing shows a circular driveway that connects those cuts.

S. Schiller asked if there would still be a need for this variance. C. Holden stated that he didn't see any.

A motion to close the public hearing was made by J. Clingman-Scott, supported by R. Hilt and unanimously approved.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to allow a circle driveway to be placed in front of the front building line at 512-523 Oak Avenue (front yard parking), be denied, based on there being no need for this request due to the changes in the placement of the home, was made by J. Clingman-Scott, supported by R. Hilt and unanimously approved.

## PUBLIC HEARINGS

Hearing, Case 2004-08: Variance request to allow a billboard to be placed at the rear of the building located at 1812 Lakeshore drive, by Richard McEwen. B. Lazor presented the staff report. The subject property is located at the intersection of Lakeshore Drive and Estes Street. The Ferry traffic will be entering onto lakeshore drive off of Estes. The building encompasses a good portion of the property and the rear faces the new ferry terminal and a set of railroad tracks. The property is located in a commercial area with residential across Lakeshore Drive. The property owner has submitted a sketch of what the sign could look like. The sign is 25' wide by 15' tall which is 375 square feet. The sign appears to be attached to the rear of the building. The applicant has not supplied information as to if the proposed sign would be illuminated. The Zoning Ordinance spells out certain locations for the erection of billboards in overlay zones; this property is not one of them. The location of the sign is unique because of the proximity to the ferry dock. The applicant wants to use the sign and its location to direct visitors to various

businesses and attractions in the City. If the ZBA were inclined to grant the variance, staff would suggest a condition of it being that the sign be of professional quality design and material and to have the owner clean up the graffiti and debris, including the weeds and scrub at the rear of the property. Staff received an Email from Randy Crow of RC Productions (neighbor) 1756 Lakeshore Drive, which was provided to the commission members. Staff also received a message with no name or address. They asked a question, but gave no opinion. Wanted to make sure that she didn't have to attend the meeting.

R. McEwen stated that he has made phone calls to various businesses in Lakeside and Downtown. The Lakeside portion of the sign would be full. So far he doesn't have anything for the Downtown side. B. Larson asked if there would be a charge for businesses to be on the sign. R. McEwen stated that there would be a charge of \$500 per business. B. Larson asked if he had contacted the Chamber of Commerce. R. McEwen stated that he had spoken to them as well as the County. He had received verbal okays, but nothing in writing. B. Larson recommended someone for Mr. McEwen to contact. S. Schiller asked what the sign would be made of. R. McEwen stated that he had spoken with Randy Crow regarding the sign. The sign would have 4 colors and the estimate for the sign was \$5,500. He stated that he had planned on using the money from the businesses to have the sign done and the money that was left would be used to paint the building. R. Hilt stated that the building should be painted with or without the sign. He stated that the sign couldn't be used as an excuse for not painting the building. J. Clingman-Scott asked if there were any code violations against the property for not painting. B. Larson stated that he didn't know of any. J. Clingman-Scott asked where the sign would be located and if it would be seen from the street. S. Schiller stated that it would be located behind the building for the people getting off the ferry to see. E. Fordham stated that he had been out to the property and did some measurements of the building. He stated that the supplied drawing with measurements didn't match up with the measurements he had taken. R. McEwen clarified which part of the building should be measured. E. Fordham stated where he had taken his measurements. S. Schiller stated that they usually have a contractor's details before them. He gave examples of what they would need to know such as the materials that would be used on the sign, lighting, etc. He stated that they would need this information in order to make a decision. He stated that he liked the concept, he just needed more information.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to allow a billboard to be placed at the rear of the building located at 1812 Lakeshore Drive, be tabled until further information is provided, was made by J. Clingman-Scott, supported by B. Larson and unanimously approved.

Hearing, Case 2004-09: Variance request to reduce the required off-street parking for proposed Day Care Center at 1188 Spring and 289 Isabella, by Christine Cunningham. B. Larson presented the staff report. The subject property is located near the intersection of Spring and Isabella. The property is a corner lot with a frontage of 82' and 132'. The buildings were formerly owned by a school, which ran a preschool. They both have been vacant for some time. The property is located in a residential area. The assessor's office has the structures listed as 1364 and 1252 square feet. The off street requirement for both of them is 7 parking spaces. Staff has determined that with the driveways, the two building could hold 2 spaces each for a total of four. That leaves 3 spaces for some other places on the lot. The lot is small with both houses on it. The back yard

of the spring street house is fenced in with chain link. Directly behind the Isabella house is a shed. There is not much room on this lot for the additional parking that is required. Because of the nature of a day care parking needs would generally only arise before and after work when caretakers are picking up and dropping off children. There is a good amount of on street parking available for this situation. The Zoning Ordinance allows day care centers in the R district under special use. The applicant still needs to go before the Planning Commission to obtain a special-use permit. If the ZBA is inclined to grant the variance from the off street parking requirements, it can be contingent upon the granting of a Special-use permit from the Planning Commission. Staff received a phone call from Darrell Caviness of 209 & 211 Iona stating that he had no objections to the variance. He stated that this would be good for the neighborhood. The only problem he could see would be when there is shift changes with people picking up and dropping off their children, but he wasn't concerned with this. There was also a phone call from Nick Coning. He had questions as to what shifts the daycare would be for and the number of kids that would be enrolled. Staff also received a letter with no name or address. They had concerns about the rezoning, which this case isn't nor did it state that in the notification letter.

R. Hilt asked who owned the property. D. Wood stated that the MAISD still owns the property. J. Clingman-Scott asked if there was a limit on the number of staff and children allowed based on the square footage of the buildings. B. Lazor read from the zoning ordinance that each child is required to have 35-sq. ft. of indoor play area, which excludes hallways, bathrooms, etc. R. Hilt stated that if it were a preschool, then this use is virtually the same thing. D. Wood stated that the Muskegon Oceana CAAP had run the preschool. C. Cunningham stated that there would be 1 staff person to every 5 children. She stated that they would be in guidelines with what the State requires. B. Larson asked if the buildings were vacant. C. Cunningham stated that they were. S. Schiller asked how long they were vacant. D. Wood stated that it had been 4 years. E. Fordham asked if the buildings had originally been built as homes. D. Wood stated that they were built in the early 70's. The buildings were purchased with Federal funds by Muskegon Oceana CAAP to run a preschool. J. Clingman-Scott stated that she didn't think they were built for housing. She stated that she used to teach at these buildings. B. Larson asked if these were being purchased by a private enterprise and would be placed back on the tax roll. C. Cunningham stated that it would. S. Schiller asked about the staff to vehicle ratio. C. Cunningham thought that there would be about 6 staff people with each person having their own vehicle.

A motion to close the public hearing was made by R. Hilt, supported by B. Larson and unanimously approved.

E. Fordham felt that there was enough on-street parking. He felt better that it would be on-street parking due to the chance of someone backing up and running over a child being greater if the parking was on-site since there isn't much property to work with in regards to a parking lot. J. Clingman-Scott asked if there was parking on both sides of the street. S. Schiller stated that he believed so.

The following findings of fact were offered: There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning

district because the buildings were owned by Muskegon Public Schools and was a preschool in the past. The applicant is proposing a similar type of use by using it as a daycare center. The dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because the buildings were built close together and there isn't enough room on the property to build a parking lot. Authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest because the buildings had a similar use there in the past when it was used as a preschool. The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because the ordinance requires a parking lot and the ordinance doesn't have this type of property in mind. The alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner because a similar use had been in the buildings previously. The requested variance is the minimum action required to eliminate the difficulty because the ordinance regarding parking was probably enacted after the buildings were placed on the property and this would be the best use of the property.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance reduce the amount of off street parking at 1188 Spring and 289 Isabella, be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future and is contingent upon the granting of a Special Use permit from the City of Muskegon Planning Commission. 2) That the addition to the property must be complete within one year or the variance is void, was made by B. Larson, supported by R. Hilt and unanimously approved.

Hearing, Case 2004-10: Variance request to allow a garage to be built in front of the front building line and to reduce the front (west) setback to 1 foot and the side yard (south) setback to 0 feet at 1790 Beach Street, by Steven and Bernadette Thomas. B. Lazor presented the staff report. The subject property is located on Beach Street in between Wilcox and Woodlawn Court. The property is 65' X 107' and front on Pere Marquette Park. The property is located in a critical dune area. The house has recently been renovated and built to include a second story. Since the property is in a critical dune area, the Michigan Department of Environmental Quality must also be involved in this project. Permits must also be granted from them before the project could commence. There was a garage in front of the house but it was torn down nearly 10 years ago. The pad still remains. The garage did encroach on the neighbor to the south's property. The pad still does encroach. The applicant is asking for three variances. The first one is that accessory structures are not allowed to be built in front of the front building line of the house. The second is to reduce the front setback to 1 foot and the third is to reduce the side setback to zero. The applicant proposes a two-stall garage that is 24 feet wide by 26 feet in depth. The city would measure the garage from the dripline of the structure for setback purposes. The applicant has not supplied the height of the structure. There is another property on Beach Street to the north of this project, which has a garage near the street. It appears that it has been there for many years. Staff received an email from Mark Molitor of 1786 Beach. He indicated that he would be a neighbor affected by the variance and he is in favor of the project. A copy of the email was provided to the commission members. Staff received a phone call from Mr. Buck of 1796 Beach. He had questions about the project. There was also a phone call from Judy and Bob who

had no objections as long as the garage would be single-story. B. Lazor added that in talking with the applicant that the proposed garage is taller and may need a variance for that also.

B. Thomas stated that they had purchased the cottage about 11 years ago. They had done some extensive rehabilitation to the home. They are looking at making this their semi-permanent residence. Before they had purchased the property, there had been a garage. The garage was located about 2 ½ feet onto the neighbor's property. The cement pad still remains from the garage, which they are currently parking on. They had tried to have the garage underground, but the DEQ turned them down because it is a critical dune area. The garage that they are proposing to build is larger than the pad. She didn't realize there would be a height limit, they are looking at about a story and a half so there would be some room for storage. S. Thomas stated that they would like to be able to park their cars in a garage. The sand is damaging to any areas of the car that has grease. The DEQ won't allow them to go into the hill any further and they can't come out any further. S. Schiller asked why they didn't build the garage when they had made their original investment in the home. S. Thomas stated that they did try, but they couldn't go into the dune. B. Thomas added that she is a conservative and wasn't sure if they would have enough money in the budget when they were doing the house to also build a garage at that time. She stated that they could do it now. R. Hilt stated that he was uncomfortable with a 0-ft. setback. He asked why they didn't just move the garage 2-ft. to the north. B. Thomas stated that if they were to do that, then they would have to move their stairway also. She wasn't sure that the DEQ would allow them to move the stairway. R. Hilt had suggested tabling this request. He felt that more information was needed.

B. Thomas stated that the garage that had been on the property previously was a stall and a half. About 2-½ ft. of the pad is on the neighbor's property. J. Clingman-Scott asked if they were planning on still encroaching on the neighbor's property. B. Thomas stated that they wouldn't. S. Thomas stated that he wasn't sure if the DEQ would care about the height of the proposed garage. If this request is approved, then they could continue with the application process with the DEQ for the footprint of the proposed garage.

A motion to close the public hearing was made by R. Hilt, supported by B. Larson and unanimously approved.

B. Lazor stated that based on the zoning ordinance, the applicant may not need a variance for the height of the garage, it would depend on the shape of the roof. B. Larson asked that staff get a copy of the ordinance on this to the applicant. He stated that this is a unique situation due to it being in a critical dune area and is in support of this request. R. Hilt stated that he has no problem with it being 1 ft. away from the sidewalk. He does have an issue with it having no setback from the adjacent property.

The following findings of fact were offered: There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district because of the topography of the dune and it's protected designation by the DEQ. The dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity because most of

the surrounding property owners already have garages on their property. Authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest because the adjacent property owners would not be affected since the proposed garage would be at street level and wouldn't impede the view of the adjacent property owners. The alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because the topography of the dune is protected. This limits the garage placement on the property. There is no other place for the garage to be placed on the property. The alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner because they have been the owners of the property for 10 ½ years. This would also help protect their vehicles from the blowing sand. The requested variance is the minimum action required to eliminate the difficulty because this would provide for the minimal invasion of the dune while providing a safe storage for their car and equipment.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance to allow a garage to be built in front of the front building line and to reduce the front (west) setback to 1 foot and side (south) setback to 0 feet be approved, based on the findings of fact, with the following conditions: 1) The variance is recorded with the deed to keep record of it in the future. 2) That the addition to the property must be complete within one year or the variance is void. 3) DEQ and City permits must be granted before construction can begin, was made by B. Larson, supported by J. Clingman-Scott and failed with S. Schiller, R. Hilt, and E. Fordham voting nay.

Hearing, Case 2004-11: Use Variance request to allow 199 Houston to be used as a single family dwelling in the B-2, Convenience and Comparison Business District, by Robert J. Bosch. B. Lazor presented the staff report. The subject property is located on Houston Ave. Across the street is residential and to the east is residential. Directly to the rear of the property is Betten Chevrolet INC. The applicant recently purchased the property and the one at 193 Houston. He plans on using 193 Houston as single family as well. It has legal non-conforming status because that is what it has been used for. Since 199 Houston has been vacant for more than two years, it has lost its legal non-conforming status and reverts to the underlying zoning, which is B-2. The property is 33' in width and 132' in depth. There is a shared driveway in between 193 and 199 Houston. 199 Houston has a garage at the rear of the property and is accessed from the shared driveway. A barbed wire fence surrounds the property and the one next door. The Zoning for this property does allow for a residential use, but only when it is associated with a commercial use. The minimum square footage for a new B-2 lot is 10,890. This property is 4,356. Since this was originally a single family home, if the owner were to convert it to a business, they would need to meet barrier free building codes along with the parking requirements for the particular use in that would be located in the building. Staff received the following phone call; they left no name or address. Felt that since it looks like a home, it should remain a home. They were in favor of the request. Staff also received an email from Brian and April Davis of 197 Hamilton who stated that they would like to see the home remain a single-family home.

R. Hilt stated that Mr. Bosch had recently purchased a home from his mother. He added that he didn't know Mr. Bosch personally. S. Schiller stated that it wasn't a conflict of interest. R.

Bosch stated that he had just purchased these homes. He would like to repair the home and market it as a single-family dwelling. He felt that having a business located in the home would be out of place. There are other commercial sites on Third St. that could accommodate a business. He would like to take the fence down and sell the home once it has been rehabilitated. He felt that this would improve the home as well as the surrounding area. He, himself, lives in the area also and he likes to invest in the area. G. Gokey stated that he would also prefer to see the home remain a single family home.

A motion to close the public hearing was made by B. Larson, supported by R. Hilt and unanimously approved.

J. Clingman-Scott stated that this is almost across from where her office is located. She stated that this area is an interesting area. All the streets seem to circle around each other. She is in favor of the request. R. Hilt agreed that it would be more ideal as a single family home.

The following findings of fact were offered: The property could not be used (put to a reasonable use) for the purposes permitted in that zone district because the structure was originally built for a single family. If it were converted to what is allowed in a B-2 zoning district, it would be limited to only a few uses. The plight is due to unique circumstances peculiar to the property and is not to general neighborhood conditions because the structure is off of the main course of businesses in the area (3<sup>rd</sup> St.) and it is located facing a single-family residential area. The proposed use would not alter the essential character of the area and will not materially impair the purposes of this ordinance or the public interest because the proposed use would in fact enhance the integrity and character of the neighborhood. Converting the home to the current zoning district would alter the character of the area. The alleged hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner because with the current zoning, the property is restricted and a single-family use wouldn't be allowed in the district. The alleged hardship is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner because currently there is a greater need in the area for affordable housing and more retail space. The proposed use should also increase property values, where as, converting it to fit under the current zoning, would not. The requested variance is the minimum action required to eliminate the hardship because the home had been used in the past as a residence and due to it being vacant for more than 2 years, it lost its nonconforming status. The home also appears to be a single-family home. The use variance does permit a use specifically identified by this Ordinance as a use excluded from the particular zone in which requested because the ordinance doesn't specify that it isn't allowed in the zoning district. The extent to which the ordinance protects users or neighbors from threats to health, safety and welfare shall be considered. A use that seriously threatens the health of future residents or neighbors is not a beneficial or allowable use. The proposed use is not considered to be a threat to health, safety or welfare of future residents or neighbors because it appears to be a single-family home and the applicant would like to use it as such. In no case shall a use that is a nuisance per se, or a use, which in that particular location constitutes a nuisance, be granted as a use variance. Such uses are not legal uses of the land. The proposed use is not considered a nuisance because there are single-family homes across the street and next door to it.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the use variance to allow a single-family dwelling in the B-2 district at 199 Houston. be approved, based on the findings of fact, with the following condition: 1) The variance is recorded with the deed to keep record of it in the future. 2) The barbed wire fence would be removed and may be replaced with a fence that meet the zoning code, was made by J. Clingman-Scott, supported by B. Larson and unanimously approved.

The meeting was moved to conference room 103.

S. Schiller asked to take have an update on a previous case from B. Larson. B. Larson provided the commission members with a memo from B. Mazade regarding Van's variance for their sign. S. Schiller stated that the condition to the variance didn't have to do with the signs be conforming or not. When the applicant was before them, he was fine with removing it. He would like to know what changed since that meeting. J. Clingman-Scott stated that it had to do with the signs being too cluttered. S. Schiller asked the commission members if they would be okay with him meeting with B. Mazade to discuss this matter further. The commission members agreed.

Hearing, Case 2004-12: Staff initiated request to interpret the Zoning Ordinance to classify what Zoning District Taxi/Limousine services belong in. B. Lazor presented the staff report. This case has come about for two separate reasons. The first is the location of an Ambu-Care service facility in Muskegon and secondly for the location of Limousine services. Staff has looked at the description of an Ambu-care service and determined it is most like a taxi service without the internal clock/payment methods. Both of these types of services are not classified in the Zoning Ordinance and therefore they would be prohibited. Taxi and Limousine services both would be of similar uses. Both have vehicles that are parked on the property for periods during the day and both can be dispatched to various locations around town. The taxi-service may be generally in operation during the day and limousine during the evening. However, both could be operating the entire day. Staff has reviewed the zoning ordinance and is unable to determine the best place for a Taxi/limousine service. Staff has contacted other municipalities and has researched other zoning ordinances to see where other have placed these uses. Staff was unable to find a municipality that has these named in the ordinance. There is a legal non-conforming cab company located in a B-2 district, which has been in operation for a long time. Staff feels that there are two uses that have a somewhat similar appearance and use to taxi/limousine services. The B-4, General Business District allows for bus passenger stations as a principal permitted use. The preamble to the B-4 district states that "The B-4 General Business District is designed to provide for a wide variety of business activities including automotive services and goods, and is generally incompatible with the uses in the B-1, B-2, and B-3 Business Districts." The other similar use would be that of a new or used car lot. This is provided for in the B-4 District under a special use permit. They are similar in the fact that the lot would have the vehicles parked on them. However the new/used car lot would have the vehicles parked for a longer period of time. The taxi/limousine service would have the vehicles moving in and out during specific parts of the days.

B. Larson left at 5:30 p.m.

D. Erickson explained their purpose. They are looking at occupying the Seaway Motors Building which is zoned Waterfront Marine.

A motion that Taxi and Limousine service should be allowed with the B-4 zoning district, was made by J. Clingman-Scott, supported by R. Hilt and unanimously approved.

#### OTHER

1790 Beach – S. Thomas asked to speak to the commission members. He asked the commission members why they had voted against his request. S. Schiller informed the member that they do not have to answer any questions regarding the case. S. Thomas stated that by all means necessary, he would do what needed to be done in order to get this approved. He asked why the commission members didn't have to answer any questions since he was trying to get an understanding. S. Schiller stated that once a case has been decided, they don't have to discuss it further. The applicant also threatened litigation on this case. S. Thomas stated that he just wanted some dialogue and he didn't say it would go to litigation. He added that he had worked in government for many years and he knows how it works. R. Hilt stated that he was only against part of the variance. He has a problem with a 0-ft. setback from an adjacent property. He felt that was quite a variance. He could accept a 1-ft. setback from the sidewalk. S. Schiller stated that he wasn't willing to discuss his reasons. E. Fordham stated that he just had a problem with it.

955 W. Laketon – B. Lazor stated that the City Commission has tabled the rezoning request. They are asking that the ZBA commission members reconsider hearing the use variance case again. The Planning Commission had recommended denial of the rezoning to the City Commission with the recommendation to ask the ZBA to rehear the case. He asked the commission members if they would be willing to rehear the case. S. Schiller stated that they had made themselves clear at the meetings for the variance. They didn't want a 2-unit home there. He added that the City has been downzoning areas for the blight fight and they didn't feel that by having this as a 2-unit, would help the cause. J. Clingman-Scott stated that she also felt the same way. R. Hilt stated that the problem was with the realtor. The realtor was aware of the applicant's intentions and they should have done a better service to them. He stated that the applicant should sue the realtor. E. Fordham agreed that it was a tough job in this situation, but didn't want to rehear the case.

There being no further business, the meeting was adjourned at 5:45 p.m.

hmg  
4/13/04